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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/817,610	04/02/2004	Sabrina L. Murray	STL11366	2451

7590 04/24/2006

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EXAMINER

CYGAN, MICHAEL T

ART UNIT	PAPER NUMBER
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2855

DATE MAILED: 04/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/817,610

Applicant(s)

MURRAY ET AL.

Examiner

Michael Cygan

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1, 2, 4-7, 10, 12, 14-16, 18, 20, 22, and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Docy (US 6,298,712). Docy discloses the claimed apparatus and method for performing leak testing of an article with the apparatus, comprising pressurized air source [12], accumulator [16], flow meter [18], conduit (pipe from [36] to [26]), bleed orifice [22], regulator [14], valve [24], microprocessor controller [50] which compares the leak rate through test part and reference orifice to the leak rate only through the reference orifice to determine whether the test part has an acceptably low leak level (column 4 lines 60-67; Figure 3); the method further comprises use of the valve to divert flow to make the above described measurement, and comparison of the determined leak rate (ratio) to an acceptable value. Note that measurement of pressure of escaping gas over a specified time period is a measurement of the flow rate of the gas.

See entire document, especially column 3 line 45 through column 5 line 10.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 11 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Docy (US 6,298,712). Docy teaches the claimed invention except the particular leak magnitude range. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the claimed range, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.
3. Claims 8, 9, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Docy (US 6,298,712) in view of Lindeberg (US 3,818,752). Docy teaches the claimed invention except the use of two flow meters. Lindeberg teaches the use of two or more flow meters connected in parallel for use in a leak testing device; see column 2.

lines 47-52. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use two or more flow meters connected in parallel as taught by Lindeberg in the invention taught by Docy, since Lindeberg teaches that such provides exact indication of the magnitude of any leakage (increased detection range); see column 2 lines 46-53. As Lindeberg teaches the use of flow meters based upon the desired flow rates to be sensed, it would have been obvious to use a flow meter having a mid-range point near that of a reference orifice leak, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

4. Claims 3 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Docy (US 6,298,712) in view of Ledeen (US 5,708,193). Docy teaches the claimed invention except for the use of a pressure regulator having a variable orifice size. Ledeen teaches the use of a pressure regulator having a variable orifice size for use in a leak test system having an accumulator; see Figure 5 and column 7 lines 21-60. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a pressure regulator having a variable orifice size as taught by Ledeen in the invention

taught by Docy to charge the accumulator, since Ledeen teaches such use as advantageous in properly and quickly charging an accumulator for pressure leak test systems.

5. Claims 13 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Docy (US 6,298,712) in view of Macpherson (US 1005/0036232 A1). Docy teaches the claimed invention except for the use of a data storage device as the tested unit. Macpherson teaches the use of a data storage device as a test unit for a leak test; see paragraph 0033. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a data storage device as taught by Macpherson in the invention taught by Docy to form the tested unit, since Macpherson teaches the necessity of leak testing disc drives (paragraph 0033).

Response to Arguments

Applicant's arguments filed 24 March 2006 have been fully considered but they are not persuasive.

Applicant objects to the use of Docy's pressure sensor which determines a drop in pressure over a period of time as the claimed "flow sensor." Applicant, however, admits that "a measurement in a change in pressure may correlate to a flow rate;" see remarks page 1, 4th paragraph. Applicant's specification states that "the term 'flow

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meter' will be construed broadly to cover any type of device or system that determines a flow rate for a flow of pressurized fluid. Therefore, the pressure sensor of Docy reads on the indicated claims.

Applicant was "unable to locate a regulator with a variable orifice size" in Ledeen. The rejection referred to column 7 lines 21-60, which sets forth a pressure regulator [88] which is adjusted to provide a certain pressure. The adjustment, performed with an adjustment screw, must necessarily variably restrict the amount of nitrogen able to pass from the input of the regulator, through the regulator, and through the output of the regulator; see Figure 5. The variable restriction forms a variable orifice which the gas must pass through.

With respect to the applicant's concerns over the range in the rejection based upon Docy in view of Lindeberg, it is submitted that *In re Aller* is still controlling law on this point, and therefore discovering the optimum or workable ranges involves only routine skill in the art.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Cygan whose telephone number is (571) 272-2175. The examiner can normally be reached on 8:30-6 M-Th, alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Lefkowitz can be reached on 571-272-2180. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MICHAEL CYGAN, PH.D.
PRIMARY EXAMINER